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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,726	03/23/2001	John Kroeker	ELZK-004	8193

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ART UNIT	PAPER NUMBER
2154	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/815,726	KROEKER ET AL.
	Examiner	Art Unit	
	Mohammad A. Siddiqi	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 March 2007</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-4,7-10 and 19-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4, 7-10 and 19-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-4, 7-10, and 19-21 are presented for examination. Claims 5,

6, and 11-18 have been cancelled.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

3.   Claims 1, 2, 4, 7-9, and 19 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Mohri et al. (6,032,111) (hereinafter Mohri) in view

of Brown et al. (6,587,822) (hereinafter Brown).

4.   As per claim 1, Mohri discloses a speech application system (col 6, line

55), comprising:

A. a speech recognition (SR) system (col 6, line 55) configured to

receive an audio input (S710, fig 15, col 6, line 55-59) and generate

context-independent result object (S740, fig 15) representing all possible

context-dependent interpretations (S730, fig 15) of said audio input so as to

be context independent (elements of fig 15, col 19, lines 4-39);

configured to receive said context-independent result object and said one or

more application (elements of fig 15, col 19, lines 4-39).

Mohri does not specifically disclose B. a speech application script, loaded at

the SR system and configured to task said SR system, said application script

defining one or more application contexts, said application contexts being

represented as categories of interpretation; and

C. result object evaluator, as a function thereof, to generate a specific

interpretation result corresponding to said audio input, and to return said

interpretation result to said application script. However, Brown discloses

B. a speech application script (col 2, lines 9-21 and col 13, lines 19-25),

loaded at the SR system and configured to task said SR system, said

application script defining one or more application contexts, said application

contexts being represented as categories of interpretation (col 2, lines 9-21

and col 13, lines 19-35); and

C. result object evaluator, as a function thereof, to generate a specific

interpretation result corresponding to said audio input, and to return said

interpretation result to said application script (voice interpretation, col 13,

lines 19-35; lines 37-46). It would have been obvious to one of ordinary skill

in the art at the time of the invention was made to combine the teachings of

Brown and Mohri. The motivation would have been developing Interactive

Voice response system using automatic grammar creation and compilation to

optimize the speech recognizer.

5.   As per claim 2, the claim is rejected for the same reasons as claim 1,

above. In addition, Brown discloses one or more of said application script is

included in a Web page (col 14, lines 13-21).

6.   As per claim 4, the claim is rejected for the same reasons as claim 1,

above. In addition, Brown discloses an application script includes

programming code written in a language chosen from a group of scripting

languages comprising (1) Jscript; (2) PerlScript; and (3) Vbscript (col 14,

lines 1-14, Javascript, Jscript, PerlScript, and Vbscript scripting languages

embedded in web page development).

7.   As per claim 7, the claim is rejected for the same reasons as claim 1,

above. In addition, Brown discloses audio the input is received from a device

chosen from a group comprising (figure 1, element 108, col 2, lines 61-67,

col 3):

        A. a telephone (figure 1, element 106-1, col 2, lines 61-67; col 3, lines

1-22);

B. a cellular telephone (figure 1, element 106-1, col 2, lines 61-67; col 3, lines 1-22);

C. a personal computer (figure 1, element 106, col 2, lines 61-67; col 3, lines 1-22);

D. an application server (figure 1, element 106-N, col 2, lines 61-67; col 3, lines 1-22); and

E. an audio receiver (figure 2, element 108, col 2, lines 61-67; col 3, lines 1-22).

8.   As per claim 8, the claim is rejected for the same reasons as claim 1, above. In addition, Brown discloses an audio input is received via a network including one or more wire or wireless networks from a group (figure 1, element 108, col 2, lines 61-67) comprising:

A. a telephone network (figure 1, element 106-1, col 2, lines 61-67, col 3, lines 1-21);

B. a cellular telephone network (figure 1, element 106-1, col 2, lines 61-67, col 3, lines 1-21);

C. a LAN network (figure 1, element 106-1, col 2, lines 61-67, col 3, lines 1-21);

D. a WAN network (figure 1, element 106-1, col 2, lines 61-67, col 3, lines 1-21);

E. a virtual private network (figure 1, element 106-1, col 2, lines 61-67, col 3, lines 1-21);

F. the Internet network (figure 1, element 106-1, col 2, lines 61-67); and

G. the Web network (figure 1, element 106-1, col 2, lines 61-67).

9.   As per claim 9, the claim is rejected for the same reasons as claim 1, above. In addition, Brown discloses valid interpretations of said audio input includes all valid interpretations of said audio input within said context (col 13, lines 18-36).

10.   As per claim 19, the claim is rejected for the same reasons as claim 1, above.

11.   As per claims 20 and 21, claims are rejected for the same reasons as claims 1 and 19, above. In addition, Brown discloses a set of reusable object oriented interface (interfaces must be reusable, since the invention is web based IVR and using scripts and java programming language, Figure 2, element 122, col 4, lines 31-41) local to the SR system, said interfaces configured to interface said application script with SR system (col 2, lines 9-21; col 3, lines 40-53; PML).

12.   Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Mohri et al. (6,032,111) (hereinafter Mohri) in view of

Brown et al. (6,587,822) (hereinafter Brown) as applied to claims 1, 2, 4-9

and 20 above, and further in view of Mikurak et al. (6,606,744) (hereinafter

Mikurak).

13.   As per claim 3, Mohri and Brown both fails to teach interfaces are

object exposed via ActiveX facilities. However, Mikurak discloses teach

interfaces are object exposed via ActiveX facilities (col 15, lines 21-40).

Therefore, it would have been obvious to one to of ordinary skill in the art at

the time of the invention was made to combine the teachings of Mohri and

Brown with Mikurak. The motivation would have been to use ActiveX

component in web pages because ActiveX components create and manage

interactive multimedia at the Web site on Microsoft platform and can be

easily integrated with SQL Server or other Microsoft products).

14.   As per claim 10, Mohri and Brown both fails to teach tentative usage,

however, Mikurak discloses the applications is chosen from a group of

applications:

A. consumer survey applications (col 131, lines 5-15);

B. Web access applications (col 38, lines 7-38);

C. educational applications, including health education applications and computer-based lesson applications and testing applications (col 38, lines 7 -38);

D. screening applications, including patient screening applications and consumer screening applications (col 150, lines 20-49);

E. health risk assessment applications (col 150, lines 20-49);

F. monitoring applications, including heath data monitoring applications and consumer preference monitoring applications (col 150, lines 20-49);

G. compliance applications, including applications that generate notifications of compliance related activities, including notifications regarding health or product maintenance (col 150, lines 20-49);

H. test results applications, including applications that provide at least one of lab test results, standardized tests results, consumer product test results, and maintenance results (col 150, lines 20-49); and

I. linking applications, including applications that link two or more of the applications in parts A through H (col 38, lines 7–38). It would have been obvious to one to of ordinary skill in the art at the time of the invention was made to combine the teachings of Brown and Mohri Mikurak. The motivation would have been building a system where users can get information via multiple channels such as IVR, electronic mail, and FAQ (Frequently Asked Questions) published on website.

Response to Arguments

15.   Applicant's arguments filed 03/06/2007 have been fully considered but they are not persuasive, therefore rejections to claims 1-4, 7-10 and 19-21 is maintained.

16.   Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

17.   Applicant's arguments reflect a difference of opinion over the teachings of the prior art and how these teachings would be evaluated in light of the knowledge generally available to those in the appropriate art and the level of ordinary skill in the art. Moreover, Applicant's take an overly narrow view of the claim language. Applicant's claims are directed to a system. Specifically,

claim 1 is directed to a speech application system. However, the system is

only configured to process claimed steps rather than performing the claimed

steps. The language of the claims raises a question as to whether the claims

are directed merely to an abstract idea, non-practical application and having

no useful, concrete, and tangible result. It has been held that a single claim

which purports to be both a product or machine and a process is ambiguous

for failing to particularly point out and distinctly claim the invention (Ex Parte

Lyell, 17 USPQ2d 1548 (B.P.A.I. 1990)).

18.   In response to applicant's argument that the examiner's conclusion of

obviousness is based upon improper hindsight reasoning, it must be

recognized that any judgment on obviousness is in a sense necessarily a

reconstruction based upon hindsight reasoning. But so long as it takes into

account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge

gleaned only from the applicant's disclosure, such a reconstruction is proper.

See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine

the references, the examiner recognizes that obviousness can only be

established by combining or modifying the teachings of the prior art to

produce the claimed invention where there is some teaching, suggestion, or

motivation to do so found either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art. See *In re*

Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958

F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mohri teaches a

speech recognition (SR) system configured to receive an audio input and

generate a context-independent semantic object representing semantic data

of all possible valid interpretations of said audio input as a semantic tree

instance (fig 15 and fig 13A-13D, col 6, line 55- col 7, line 29). Brown

discloses a speech application script (col 13, lines 19-67), loaded at the SR

system and configured to said SR system script (PML, col 3, lines 23-52; col

13, lines 19-25), said application script defining one or more application

contexts (PML, col 3, lines 23-52; lines 40-66; col 5 lines 60-67; col 6, lines

1-40; col 13, lines 19-25; grammar generator construct sub-grammar for

each indicator by generating all possibly ways of speaking), said application

contexts being represented as categories of interpretation (col 2, lines 9-21

and col 13, lines 19-35); and

a result object evaluator (col 13, lines 19-35), result object evaluator, as a

function thereof, to generate a specific interpretation result corresponding to

said audio input, and to return said interpretation result to said application

script (voice interpretation, col 13, lines 19-35; lines 37-46; semantic

parser). It would have been obvious to one of ordinary skill in the art at the

time of the invention was made to combine the teachings of Mohri and

Brown. The motivation (Brown, col 3, lines 56-67) would have been

developing Interactive Voice response system using automatic grammar

creation and compilation to optimize the speech recognizer.

19.   In the remarks applicants argued that:

Argument: Brown does not teach or suggest use of a script to control SR

system.

Response: Brown discloses a speech application script (PML language, col

3, lines 46-67; col 13, lines 19-67), loaded at the SR system and configured

to control said SR system (PML, col 3, lines 23-52; col 13, lines 19-25), said

application script defining one or more contexts, said application contexts

being represented as categories of interpretation (PML, col 3, lines 23-66;

col 13, lines 19-25; col 5 lines 60-67; col 6, lines 1-40, grammar generator

construct sub-grammar for each indicator by generating all possibly ways of

speaking).

Conclusion

1.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the

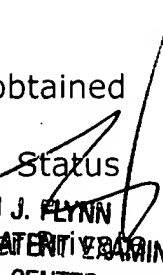extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private

PAIR or Public PAIR. Status information for unpublished applications is

available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center

(EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

MAS

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